
1990s

The Gavel

10-1996

1996 Vol. 45 No. 2

Cleveland-Marshall College of Law

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THE GAVEL



Volume 45, Issue 2 Cleveland-Marshall College of Law October, 1996

Attorney General Reno Kicks Off Centennial Celebration at Marshall



By Andy Nichol
Staff Editor

On Monday, September 30, 1996 Attorney General Janet Reno spoke before a packed audience of distinguished judges, honored alumni, students, faculty and staff in Waetjen Auditorium on the campus of CSU. The Attorney General came to Cleveland-Marshall to help kick off the Centennial Celebration and to offer words of encouragement to future attorneys regarding the practice of law and the important role it plays in society. She praised the mission of the law school and spoke particularly of the rich diversity that exists at Cleveland-Marshall. "One of the great strengths of this law school is its commitment to the community," said the Attorney General. "It is diversity that has made this law school great, and it is that kind of commitment that has made this nation great."

In addition to the Attorney General, CSU President Claire

See Reno page 10

Journal Of Law And Health Celebrates 10-Year Milestone

By Andy Nichol
Staff Editor

It has been 10 very productive years since the students and faculty at Cleveland-Marshall celebrated the birth of the Journal of Law and Health, the College of Law's newest scholarly periodical. In the tradition of the Law Review, the Journal of Law and Health is a student-run scholarly publication, nationally recognized for its timely articles and research excellence. But unlike Law Review, the Journal has an identity all of its own as an inter-disciplinary periodical focusing on the complexity of the legal aspects of medicine and health sciences.

The Journal was established to provide a forum for a variety of points of view which emanate from the legal and health communities, ranging from busi-

See Journal page 2

Ohio Raises Bar Discriminatory Scores For July '97 Parking Fees Frustrate Students

By Evelyn Moya
Staff Editor

By Tom Fourmas

The Ohio Supreme Court has announced the new two-step increase in the required score to pass the Bar Examination. Starting July 1996, the score required is raised from 375 to 385 points. This new score is required likewise for the February 1997 bar examination.

However, students graduating in May 1997 and slated to take the bar examination in July 1997 would need a passing score of 405 points. This new required score represents an increase of thirty points from the 1996 exam.

For whatever reason, the Ohio Supreme Court may have concluded that the state needs to pose a "tough jurisdiction" reputation. Increasing the bar passing score hypothetically would drop the number of successful examinees. Is this the Ohio Supreme Court's equivalent of Keynesian doctrine on the market of law practitioners?

Criminal Code Undergoes Significant Changes

By Jihad Smaili
Staff Editor

On July 1, 1996, Ohio criminal law changed significantly in some areas. Any and all crimes that take place on or after July 1st, 1996 will be affected by the new legislation. Four-hundred and forty-three sections were amended, thirty-eight sections were newly enacted and seventy-eight sections were repealed. The purposes for such changes are as follows:

- Concentrate on Repeat Violent Offenders (RVOs) and major drug offenders;

- Truth in sentencing legislation (eighty-five percent of sentence to be served, federal law), generally, the time sentenced is the time served because S.B. 2 eliminates good time and parole releases.

- The underlying purpose of the felony sentencing is to protect the public from harm by the offender and to punish the offender

See Criminal Law page 11

Beginning this academic year for Cleveland State students, the Parking Department initiated a new parking system. Some of you might be aware that the system operates on two tiers. The first is the prepaid option, which for a current law student is \$119 up front per semester. This entitles you to parking anywhere on campus that is designated student parking.

The second option is the daily parking decal. This option entitles the holder for a \$2 a day fee to park in designated lots between 7am - 2pm outside the campus core. The campus core is all parking between Euclid and Chester Avenues and East 17th and East 30th streets. This area includes parking in both garages that Marshall students have come to utilize frequently.

When looking at this system, it seems to be unfair to people based on their economic ability to pay the up front fee of \$119. Many law students may be on fixed incomes and cannot afford to pay the \$119, but may opt for the daily decal charge of \$2 a day for the days they come to school. Because of their economic hardship, they are forced by the Parking Department, as I like to analogize, ride on the back of the bus. While students with the economic ability to pay have first choice of a parking garage close to the law school.

Does this seem fair from a public institution that is predominantly made up of commuters? Does it seem fair from a University established in 1964 to help provide people with an education that are unable to afford expensive private colleges and universities?

What made me more concerned was the Parking Department's publication The Parking Spot, (Vol. 9, No.3, Fall 1996), that mentioned that the new parking procedures were reviewed and endorsed by the Student Bar Association. I thought that law students, especially our SBA representatives

See Parking p. 11

Next Issue, Alumni Advice debuts

Words of wisdom, caveats, and practical realities in the legal profession contributed by notable members of the Alumni Association.

The Honorable James J. Sweeney, Presiding Judge for the Cuyahoga County Court of Common Pleas will author the inaugural column.

Journal from page 1

ness aspects of health care to policy considerations; issues of ethics and morality, as well as the more traditional case comments and research pieces.

From its humblest beginnings, the Journal has grown from a pioneer staff of 12, to an editorial board of 10 and associate staff of 34. Additionally, the Journal is now accessible on both the Westlaw and Lexis electronic databases, and has a subscription rate of over 400 including major medical and legal libraries throughout the country.

Student members of the Journal staff are selected either by virtue of ranking in the top 20 percent of their class, or by successfully competing in the summer writing competition after their first year of law school. Articles are solicited from throughout the United States and judged by their quality; the selected manuscripts are published, by staff members, who accept responsibility for originality, quality, and accuracy. In addition, all staff

members are required to write their own research pieces of publishable merit, from which a number are selected for reproduction in the Journal.

The current editorial staff consists of Kate E. Ryan, Editor-in-Chief; Scott S. Allen, George G. Pappas and Jeffrey Whitesell, Managing Editors; Robert Gerberry, Darryl E. Gormley and Darya P. Jeffreys, Executive Editors; Vicki A. Goldberg, Research Editor; Mark S. Bennett, Business Editor; and Zinaida Shulman, Senior Editor. The 34 associates round out the Journal staff along with Editorial Assistants Holli Goodman and April Mixon, and Faculty Advisor, Stephen J. Werber.

This spring, the Journal will publish a special "centennial" issue celebrating the 100-year anniversary of Cleveland-Marshall. The "centennial" volume will be an open forum for all professors and alumni to celebrate the achievements of C-M scholars.

MAKE A STATEMENT...

The GAVEL is always seeking interested students, staff, faculty, and administrators to contribute to this publication. If you are interested, stop by the office, LB 23, or call 687-4533.

The opinions expressed are those of the author and not the GAVEL. The GAVEL is not responsible for article content including factual matters.

**VOTE
ON
NOV. 5TH**

THE GAVEL
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Student Defaults Leave Fund Dry

By Ed Palm
Staff Writer

You have only seventy-five dollars and no food in the house. You are about to go shopping when the Illuminating Co. calls and promises to turn off your service in forty-eight hours if you don't come up with two hundred dollars to pay your past due electric bill. What do you do?

This might not be a probable scenario to some of the law students here, but to others this situation, or one resembling it, is a reality. One thing you cannot do is borrow from the school's emergency fund. You can't--it's broke.

The emergency fund, a.k.a. the Judge David C. Meck Assistance Fund, loans out a maximum of three-hundred dollars to students who demonstrate a financial need regardless of their academic standing. The critical word here is loan. This is not free money, but rather it is a debt that has to be paid back to the fund within ninety days of the disbursement. This loan is interest free to the borrower.

The Class of 1955 initiated the Meck fund with \$500.00, and additional amounts donated through the years have increased the amount available. The merit of an emergency fund is obvious when one considers the amount of stress that can be present during law school. Adding another burden, that of a financial urgency, can be quite distracting to a student trying to focus on his studies.

How did the fund go broke? Apparently, the fund has operated on good faith, a lot of the students have not.

There are six students presently enrolled at Cleveland-Marshall that are indebted to the fund. Two of these are current, that is they are within the ninety-day payback period. The other four are delinquent to the aggregate amount of \$850.00. This figure is significant, but listen to this one; there are fifty-one former students of Cleveland-Marshall, some that have graduated two decades ago, that still owe the fund. How much? Try a total of \$11,500.00. That's right, former students have benefitted from the fund, ignored the school's many requests for repayment, and left the current students of C-M a legacy of mendicancy should they experience a financial emergency.

Jane Stiefvater, of the Financial Aid Office, is responsible for sending out the notices to the debtors. But her efforts are hampered. "People move, some out of state, without informing us of their new address. Some former students send in money from time to time but never any significant amounts, a fifty here a twenty there. This money is quickly borrowed by the current students," says Jane.

Cleveland-Marshall's financial aid office is just that, it is not a collection agency; it does not have the resources or the personnel to chase after delinquent debtors. It has to rely on the presumption that the borrowers have enough integrity to repay the fund on their own without being prodded.

If a student refuses to pay tuition, the student does not graduate. Perhaps the same thought should be given to those that refuse to repay the Meck Fund. About those that graduated years ago?...what **can** be done except persuasion whether gentle or stern. Many of these accounts are so old that they cannot be collected by legal means. However, over four-thousand dollars, representing thirty-five debtors, are outstanding for less than seven years, which if I remember correctly is the statutory limit on debt collecting. But who knows if it would be cost effective? Maybe the Ohio Bar Association would be interested in knowing who they are and what they owe.

Extreme measures? Certainly. Yet there are students here that have experienced extreme financial difficulties; where there should be thousands of dollars available for them, there is nothing because of the indifference of those that came before us. As a result these students are now in extreme circumstances...and extreme circumstances call for extreme measures.

'Green Party' Politics

By Andrew Johnston

The 1996 Presidential race is beginning to look like another laugher, a la 1988. That race, between Michael Dukakis and George Bush, had the lowest voter turnout (51.4%) of a presidential race since 1948. One theory to explain this low turnout is that lopsided races do not inspire people to journey to the polls. If one believes that their vote has no chance of changing the outcome of the election, then there is little incentive to vote.

What this theory fails to explain, however, is why voter turnout has been disturbingly low for decades. The 1992 race, between President Clinton and George Bush, did not have the earmarks of a runaway race, yet the turnout for that election was only five percentage points higher than 1988, at 56.2%. In fact, the last time more than 60 percent of the voting-age public actually participated in a Presidential election was in 1968 (60.9%).

A stronger theory to explain this historical trend is that the two major parties do not represent a significant portion of the population. This theory is strengthened by the recent explosion in the number of third parties. Today we voters can choose from any number of small, focused political organizations. Sick of taxes? Join the (anti) Tax party! Tired of intrusive government, the drug war, and your personal freedoms being restricted? Then the Libertarian party is for you. And if your main concerns are ecological in nature, then

consider the Green party, and their volunteer candidate, Ralph Nader.

The genesis of the Green Party helps explain where many of these new parties have come from. For years, the environmental movement had been a fringe group of the Democratic Party. Generally, this meant that the Greens practised protest politics, as a means of pulling the party towards their agenda. Often, however, the party would be caught between the populist greens and business interests. So, in the late 1980's the greens went solo.

The Green Party hopes to increase participation through the Nader campaign. Obviously, they can't hope to win the Presidency. Ms. Daryl Davis, the leader of the Northern Ohio Green Party, asserts that eighty percent of voters consider themselves environmentally concerned. Also, through his many projects in the area of consumer safety, Ralph Nader has strong name recognition. The next hurdle the Northern Ohio Greens face is a signature drive to secure official party status.

Ms. Davis is also a student of the law, as she and the party delve for the first time into the election process. She encourages anyone who would like to learn firsthand about election law to contact her and contribute to this burgeoning movement. The Northern Ohio chapter has only been in existence for seven years, and is still taking shape. Cleveland has a strong liberal tradition, and is an excellent place for the Green Movement to take off.

"Life Awaiting Death"

(the second in a series of articles)

By Barry Saxon
Staff Writer

Under a new Ohio post-conviction law, S.B.4, all inmates, including death row inmates in Ohio prisons were required to file a petition to seek post-conviction relief by September 21, 1996. If petitions were not filed by this deadline, their right to review was forfeited. To help in this effort, the National Association of Criminal Defense Lawyers developed the Summer Post-Conviction Representation Project. For this project law students were teamed up with lawyers representing indigent death row inmates in Ohio.

The state post-conviction review process is the way in which inmates can raise the critical constitutional issues which are at the core of, and test the reliability of decisions which have been made, and the fairness of their trial. Post-conviction review is a process which addresses those issues that are not included in the record of the trial or which have been brought up on appeal. These are issues which have denied these inmates their fundamental rights. Rights which may have been abridged include: perjury by a witness or a juror, ineffective assistance by trial or appellate counsel, or withholding of exculpatory evidence by the police or prosecutor which would have shown the defendant to be innocent.

When I volunteered for this project, I expected that I would be assigned the typical law clerk grunt work of research, copying, and a long list of menial errands. I wasn't disappointed. I got to do all that I expected. But from my first meeting with Attorney John Parker, I knew that this was going to be an extraordinary experience. This was not an "ordinary" murder case. This was not one of the many murders which you don't read about, but a high profile, high publicity murder trial. Our client was Wiley Davis. Wiley Davis is a black man, who at the time of the trial had a long criminal record. The victim, Amy Perkins, was a white woman married to a local on-air radio personality. Davis was personally prosecuted by newly elected County Prosecutor Stephanie Tubbs-Jones. The trial judge was Common Pleas Judge Donald Nugent, recently appointed to the federal bench by President Clinton. Following the highly publicized trial, Wiley Davis was convicted and sentenced to death for the murder and attempted rape of Amy Perkins. Davis was now on death row in Mansfield State Prison awaiting his sentence for the murder and attempted rape of Amy Perkins, the Cleveland woman was abducted in her own car from a downtown parking lot after she had parked on her way to work. The car was found later that day, abandoned in East Cleveland. Amy Perkins' nude body was found beside the car, a single gunshot wound through her head.

Attorney Parker participated in Davis' last appeal before the Ohio Supreme Court and was waiting for a decision by the Court when he took on the job of preparing Davis' post-conviction petition. I knew that many, if not most attorneys who handle this type of appeal never meet the people they represent so I wasn't surprised when Parker told me that he hadn't met Wiley Davis. Then, Parker told me that he was going to meet with Davis, he said that he believed that it was important for an attorney to meet with his client, especially when the client's life was on the line. This is when John Parker told me that I was going to go with him to Mansfield to meet Wiley Davis.

I knew that I was going to meet Wiley Davis for about two weeks before our meeting. For those two weeks, instead of the usual daydreams which occupy your mind in those idle and retrospective moments of the day, I found myself thinking about Wiley Davis. I tried to imagine what he would be like. I painted a picture of Wiley Davis in my mind, a picture of a man I didn't know, but I didn't like, I couldn't like. A man no one could like. Before meeting Wiley I was nervous and apprehensive. I've never been arrested. I've never even known someone who's been arrested. The closest I've come to seeing the inside of a prison is what you see on TV. Mansfield State Prison is not what you see on TV. Death Row is not what you see on TV. Wiley Davis was not the man I expected to meet.

(Next, Wiley Davis and Mansfield State Prison.)



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**DEADLINE FOR SUBMISSION OF ARTICLES
FOR NEXT ISSUE OF THE GAVEL:
NOVEMBER 4**

Departure Of Assistant Dean Leaves A Void

By Evelyn L. Moya
Staff Editor

The position of Assistant Dean for Student Affairs and Director of Minority Recruitment and Retention has been vacant since Prof. Melody Stewart left the post in August 1996. Stewart, who served in the capacity since Fall 1990 is now visiting professor at Cleveland-Marshall and has plans to pursue a tenured faculty position in an accredited law school.

The position of assistant dean for student affairs and director of minority recruitment and retention was established upon examination of Cleveland State University's mission to provide opportunities for students of color. Between 1988-1989, the position was started as an experiment and a review conducted two years later confirmed the necessity and propriety of such a position in the law school.

While the College of Law is under stress from the recent Board of Regents' plan to cut back on funding for the state's law schools, the search for the next dean to occupy Stewart's place has presumably been pushed to the back burner. Students who have come to rely on Stewart's academic support program will have to wait until a new assistant surfaces by "mid-October". Mid-October is the tentative date obtained from Associate Dean Frederic White who is in-charge of the search.

Melody Stewart has been known to be a staunch advocate for students's causes especially in regard to the academic support program. While such programs have assumed various forms in other law schools, Stewart was able to conduct an effective program with the utilization of student assistants. Typically, a student assistant is assigned to "tutor" first year students in the fine art of taking law school exams. Student assistants have to be qualified by GPA and teaching styles which are compatible with the students's learning styles. The academic support program was not mandatory but advisory. With her resignation from the position, another student benefit is suspended.

The greatest challenge for Stewart was increasing the minority pool of students for the law school. The efforts to recruit went beyond Ohio. In addition, retention efforts were initiated for the stu-

dents (including the minority) so that success could be achieved in handling law school examinations. She does not take offense at the statistics (low bar passage) that has been the nemesis of Cleveland-Marshall. Instead, she deflects this by saying that the low bar passage record is not one group's "fault." Passing the bar is a very "personal and individual hurdle".

As if temporarily transformed as a psychoanalyst, she pointed to the "inferiority complex" that is reflected in being a part of Cleveland-Marshall. She attributes this to "lousy" marketing that the school does for itself. "Our students and graduates should know their alma mater. We compare ourselves to other law schools to the point of convincing ourselves that we are inferior. The second factor in this inferiority complex is the common belief that something that is inexpensive is worth less." The observation is reflective of today's gross consumerism where buyers believe that you get what you pay for. "Cheap" is not an ego-boosting adjective.

In spite of the recent threatening stance by the Ohio Board of Regents, Stewart predicts that there will be less reliance on undergraduate GPAs or the LSAT scores for admission to law school. The decreased applicant pool, a nationwide trend, is a response to several social factors and could be an indication that the future law student would look and sound different from the ones we have now.

When asked if she would do the job all over again, she replied hearteningly, "Absolutely and in much the same way."

J. Patrick Browne \$1000 Scholarship

A \$1000 scholarship is available for 1996-97 in the name of the late Professor J. Patrick Browne.

Applicants must meet the following qualifications:

- * must be a 3rd or 4th year law student
- * must be a non-traditional student, i.e. part-time, and/or 30 years of age or older, and/or establishing a second career,
- * must have applied for financial aid through the Law Financial Aid Office, and
- * must show academic improvement in law career

Qualified applicants should submit a 1200 word light-hearted essay extolling the virtues of procedure i.e. "Why worry about substantive law when one has Civil Procedure avail-

AMERICAN RED CROSS HONOR ROLL

Mary Bradley, Student Senator and Chairperson of the Blood Drive, is pleased to announce that the Bloodmobile, held at the Atrium on September 23, 1996, collected 32 pints of blood from generous donors among students, faculty and staff. The Blood Services of the Northern Ohio Region recognizes the following for their generosity:

Name	Gal	Pt	Name	Gal	Pt
Geoffrey M. Aston	0	1	Mary S. Poland	0	0
Patricia A Aston	0	2	Angela M. Privitera	0	1
Anthony BattistaIII	0	2	Beverly J. Pyle	7	5
Iris J. Cabrera Muniz	0	1	Patrick J. Quallich	0	3
Terry P. Carl	0	5	Robert J. Quartell	0	2
Amy L. Carson	1	1	Kathryn A. Regnery	0	5
Mark Engling	0	1	Scott E. Rice	0	2
Julius F. Farkas	1	1	Heather J. Ross	0	3
John J. Frank	0	1	Mario J. Russica	0	6
David C. Genzen	0	1	Gabriella M. Russo	0	0
Lesley A. Hall	0	1	Michelle C. Simms	0	1
Robert Hanneman Jr	0	2	Lloyd B. Snyder	2	5
Lori A. Hendrickson	4	2	Jane H. Stiefvater	0	4
Joseph J. Jacobs Jr	0	2	Jason R. Sussman	0	1
Michele L. Jacobs	0	4	Dana W. Turner	0	1
Andrew C. Johnston	1	0	J S Volpe	0	1
Douglas A. Koski	0	3	Aaron J. Obrien	0	1
Victoria B. Plata	2	0	Denise Platfoot	0	0

Carroll Sierk Steps Down As Associate Dean

By Steve Blount
Staff Writer

One day last summer, when I was standing by the entrance to our law building, an elderly gentleman, who had recently given me some old law books, came up to me, briefly said good-evening, then walked out the door. The sun had gone down, it was cool out, and I was standing behind the glass door, with my hands in my pockets, watching as he walked away, under the sunlit treetops, till he finally disappeared into the cool evening. Behind me, I could hear the workmen tearing down a lecture hall. I grabbed the door-handle to say good-bye, but couldn't push it open. His name was Carroll Sierk, and he served Cleveland Marshall for almost thirty years.

Last summer, Carroll Sierk stepped down as a dean of our law school. With all the building going on around here, it is easy to forget that the quality of our school is determined almost exclusively by the caliber of the people in it, and that the building is just so many bricks to keep a roof over our heads. And

since our school is our people, when Carroll stepped down, it was a sad, though inevitable moment in our school's history, for he has provided a sense of continuity through the changing administrations and buildings that our school has been associated with over the years.

Two years ago, during orientation, I set a school record by dropping out 4 times within a period of one-half hour. Carroll, laughing, told me that he'd like me to stay, but would respect any decision I made. I finally left for Fenn Tower, with a *drop form* in my hand, but half way there, I remembered Carroll's kind face, and decided that I could not let him down. Walking back up the steps to our building, for the second of what seems like ten thousand times, I saw my reflection in the glass doors, and noticed that I looked more like an encyclopedia salesman, standing in the August sun, than a law student, with all the books I was carrying. Suddenly, Carroll appeared behind the door, dissolving my image, and proceeded to hold it open for me, so that I could enter the law school. "So you've decided to stay", he said. "That's right", I replied. "Well welcome aboard". To which I can finally, and only respond,

"Au revoir."

able?" The winning essay from 1994-95 is on file in the Law Library for your perusal.

The recipient will be chosen by Eunice Clavner and Chris Guarnieri, scholarship founders.

Questions should be directed to Ms. Clavner and/or Ms. Guarnieri at 781-7400 or 771-7767.

Essays are due by 12:00 noon on Dec. 31, 1996. Please submit essays to the Law Financial Aid Office at Room 41/42.

Excerpts of:

MY TEXAS JOURNEY

ONE LAWYER'S JOURNAL OF VOLUNTEER SERVICE FOR PROBAR: THE SOUTH TEXAS ASYLUM REPRESENTATION PROJECT

Saturday, May 11th

As I got up in Cleveland at 5:30 a.m. to the radio announcer stating that it was in the 30's and raining, it definitely seemed to be a good day to be headed south to Texas. Because of the airlines' crazy pricing structure and because keeping expenses to a minimum was a definite necessity, I flew into San Antonio instead of Harlingen. I got out to stretch during the stopover in Houston and the 80-degree temperature and sun were a wonderful welcoming sensation.

Having read my Cuban Client's file, I was both excited and intimidated at the prospect of representing him, especially when I pondered the consequences if we were not successful.

As I completed the paper work for my economy car, I thought how it was somewhat amusing that rental car clerks are coached to degrade their product and to mildly insult their customers who choose to rent the least expensive economy vehicle. The clerk queried, "You are going to drive all the way to Harlingen in that?" Considering how political refugees often swim to reach the United States and considering their circumstances in detention camps and sanctuary dormitories, somehow I thought I could struggle through in a late model, air-conditioned, automatic economy car with AM-FM radio and cassette.

Texas is a big state and South Padre Island, where I had opted to stay was a long way from San Antonio. I finally arrived at my modest motel around 7:00 P.M. When I reviewed with the friendly Mexican-American manager that I had come to do volunteer political asylum legal assistance, he reduced the already reasonable price. Then I was treated to a spectacular thunderstorm. Lightning illuminated the entire island. Texas does everything in a big way. With the early start, the long drive and the time change, I fell asleep almost immediately upon going to bed.

Sunday, May 12th

I took an early walk on the beach, thinking that my adventure was an unusual but a satisfying way to spend Mother's day. I suspected my daughter was working at the Chinese restaurant where she is employed and I hoped that she was receiving big tips. After breakfast, I drove to Brownsville, passing numerous shrimp boats at the Port of Brownsville. I had

a peaceful morning touring the Gladys Porter Zoo.

I had a quick lunch and covered myself with massive amounts of sunscreen and then once again reviewed the file Pro Bar sent to me. I read not only Sr. Ramirez's impressive career, the national recognition of his scholarship and his courage in publicly criticizing the policies of the Cuban government, but also of the State Department's assertion that "[a]s described by every credible human rights organization, the situation in Cuba is among the worst in the world." Despite the tranquil beach setting for my reading, I knew I was about to embark on very serious business.

Monday, May 13th

I enjoyed a pre-dawn walk on the beach at South Padre Island under just a sliver of moon... and I discovered a baby sea tortoise exploring the sand.

At 8:00 a.m., more than a little nervous, I drove to Los Fresnos to pick up my Cuban client, Sr. Ramirez, who was being housed in dormitories at Pastor Filiberto Pereira's Disciples of Christ Church in Los Fresnos, Texas. The senior was a thin, serious man with slightly graying hair. As we drove on to Pro Bar offices in Harlingen in near silence, I cursed myself for not studying my Spanish harder...

Once there, we were greeted by two young staff members: Kelly Carson, the coordinator who is originally from Indiana, and Nathan Selzer, a Mennonite paralegal volunteer, both are gringos like myself. Senior Ramirez, Adela Henderson, a very able 74-year old interpreter, and I trudged up to the third floor of the Victorian house which is the law offices of Thelma Garcia and who provides space to Pro Bar. In a well air-conditioned, cluttered conference/storage room, we reviewed Sr. Ramirez's impressive career, his initial support of Castro's regime in his youth, his increasing disenchantment with the practice of the Central Committee and his eventual public criticism of the Party and the Cuban government at a conference on Religion and Ethnicity in Mexico City. Recognizing the prestigious career he abandoned and the wife and son he had to leave behind in Havana, I could not help but think of how cavalierly Americans take our right to freedom of speech for granted and how jealously much of the rest of the world regards this right. After being rejected

in his request at the Mexico-Texas border to be considered for asylum, this distinguished scholar then swam across the Rio Grande, entering illegally so that he could turn himself in to the border patrol to start the asylum application process.

Following the interview, I reviewed with Kelly the logistics of the hearing and sought her strategic advice. She informed me that the judge assigned to the case always announces his decision from the bench. She said on rare occasions, the trial attorney for the INS did not contest asylum applications from Cubans. I agreed to return to the Pro Bar offices on Tuesday morning to assist a young Guatemalan complete his Application for Asylum and for Withholding of Deportation. After driving Sr. Ramirez back to the church in Los Fresnos, I spent the afternoon once again reviewing his file, developing the theory of the case and drafting questions for a practice examination on Wednesday. There seems to be no question of law but instead the determination would be on how credible the judge perceives the threat of persecution to be. It seems to me that asylum should be granted; I wonder what pitfalls lie ahead.

Tuesday, May 14th

Once again, I started my day with a pre-dawn walk on the beach...and then set up my office in a lounge chair on the deck overlooking the beach and began to carefully review the young Guatemalan's file. I tried to imagine what it would be like to be twenty-one years old, to have received threatening calls, letters and a threatening visit from masked men with guns at my family's home, all because I assisted the now prevailing political party in its campaign efforts. I tried to imagine myself when I was twenty-one fleeing to a country where I knew no one, did not speak the language and had to support myself. I could not visualize it. What courage and strength he has!

Adela and I drove to the Detention Center. Adela entertained me with amusing and sad tales of former applicants and experiences with other volunteer attorneys. She spoke candidly about how Pro Bar had come into her life after her husband died of cancer and how much Pro Bar work meant to her. She is warm, compassionate, with a terrific sense of humor and an ongoing desire to learn. She admitted to me that she had not slept well the night before as she had worked late on translating documents pertaining to the

killing of persons based on their political beliefs. I hope that when I am seventy-four that I have her energy, her activism and her compassion!

...The Detention Center was as imposing and depressing as the state prisons I had too often visited, complete with barbed wire, guardhouses and the lack of color...

Wednesday, May 15th

My pre-dawn walk has now become a most enjoyable routine.... I returned to Los Fresnos to pick up Sr. Ramirez at the church dormitories so that we could further practice questions and responses for his hearing tomorrow. I find I am driving over one hundred miles a day but it is easy. However, the fact that I am unable to speak Spanish made the silence deafening as Sr. Ramirez and I drove to the ProBar office...We practiced direct examination and cross-examination questions and Sr. Ramirez was serious in manner, eloquently articulate, and consistent in his responses. I dared to become very optimistic that we would prevail at the hearing tomorrow.

Thursday, May 16th

Today, I woke up at 4:30 a.m., jittery because hearing day has arrived. Today's pre-dawn walk was marked by dark clouds which I hoped were not an omen of things to come. I once again drove to Los Fresnos to pick up Sr. Ramirez. He was prompt, serious and experiencing pain from a back injury. The awkwardness of our silence in the car returned.

We arrived at the Immigration Court at 8:30 a.m.; the hearing was scheduled for 9:00 a.m. I noticed as we entered the courthouse which is part of a strip shopping area that there was a for sale sign in the window. I wondered whether the sale was part of Congress' budget reduction program. I met briefly with the INS trial attorney before the hearing and after a few questions, she was willing to stipulate to Sr. Ramirez's resume.

The hearing before Judge Howard Achtsam commenced at exactly 9:00 a.m., not my experience in common pleas court at home. He ran his courtroom like a well-oiled machine. The proceedings were taped and he made clear headings for the transcriber as to exactly what was happening. See Texas p. 10

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UPCOMING CALENDAR OF EVENTS

- October 21** Office of Career Planning (OCP),
Ernst & Young, Tax
On-Campus for Interviews
- October 23** OCP, Reminger & Reminger Co., LPA
On-Campus for Interviews
- October 25** SBA "Halloween Party", Law School Atrium
Children (6-7 P.M.) games and costume party.
Adults (7:30 P.M.-12 A.M.) costume party with music,
beverages and food.
- October 30** *Judicial Opinion Writing*, Moot Court, 12:30 P.M.
The Honorable Evelyn Stratton, Ohio S.Ct. Justice

A Prosecutor's Journey, Moot Court, 4:00 P.M.
Stephanie Tubbs-Jones, Cuyahoga Cty Prosecutor
- November 2** West Bar Review Exam Lecture Series
MPRE: Room 12, 1:00 P.M.
Torts: Room 11, 1:00 P.M.
- November 5** "First Year Orientation to OCP,"
Time and Place to be announced.
- November 7** "First Year Orientation to OCP,"
Time and Place to be announced.
- November 8** Registration Mail-in or Drop-Off deadline for
Spring Semester.
- November 9** West Bar Review Exam Lecture Series
Civ. Pro.: Room 12, 1:00 P.M.
Evidence: Room 11, 1:00 P.M.
- November 12** "First Year Orientation to OCP,"
Time and Place to be announced.
- November 14** "First Year Orientation to OCP- Evening Students"
8:30 P.M. Location to be announced.
- November 14** OCP Open House for Students.
6:00 P.M.-7:30 P.M.
- November 16** West Bar Exam Lecture Review
Contracts: Room 12, 1:00 P.M.
Agency/Partnership: Room 11, 1:00 P.M.
- November 18** **SBA Warm and Woolly Clothing Drive Begins**
(Collection location to be announced)
- November 19** **SBA Immunity Day**- Bring in your canned food
(Watch for details)
- November 20** OCP (Cover Letter and Resume Writing Workshop)
12:30 P.M.-1:00 P.M. and 5:30 P.M.-6:00 P.M.
- November 20** Financial Aid Office- **LAST DAY!** to file Bar-Loan
Application for December Graduates.
- November 21** OCP Power Breakfast: Further Details to be
announced.
- November 22** **LAST DAY!** for SBA Warm and Woolly Drive.
- November 22** West Bar Review Exam Lecture Series
Real Property: Room 12, 2:00 P.M.
Will and Trusts: Room 207, 2:00 P.M.
- November 23** West Bar Review Lecture Series
Criminal Law: Room 12, 1:00 P.M.
Constitutional Law: Room 11, 1:00 P.M.
- December 5** **SBA End of Semester Social.** (Details to follow).

Letters To *The Editors*

Freemen: The Freeman had already congealed their philosophy and beliefs long before they even heard of me. Their attitude towards me was essentially, "See, here is a Federal Reserve lawyer who agrees with us about the abuses of 1933. That proves we're on the right track."

W. Todd
Chagrin Falls, Ohio

Lobbyist: I am no longer with Case Western Reserve University's Frances Payne Bolton College of Nursing Faculty. I have joined the staff of the Ohio Board of Nursing.

Carol Ann Roe, JD, MSN, RN
Columbus, Ohio

Editor's Note: Roe is now public affairs consultant for the Ohio Board of Nursing. She previously served as lobbyist for the Ohio Nurses' Association prior to belonging to CWRU Nursing faculty.

CSU ID Card Worth \$\$

By: Evelyn Moya & Marie Rehmar

Did you know that your little 2x3 student identification card entitles you to great discounts? To ensure non-fraudulent use of the student IDs, most establishments require the current semester/quarter validation sticker (blue for Fall 1996). The following cultural institutions offer student prices upon presentation of the ID card:

The Beck Center for the Cultural Arts, 17801 Detroit Avenue in Lakewood, is a moderately sized intimate community theatre that regularly presents musicals like *Hair!*, drama and comedy. It also houses some intriguing modern art and folk art pieces. Telephone: 521-2540.

The Cleveland Orchestra, "the best band in the land" (Michael Walsh, music critic and editor, *Time Magazine*, January 10, 1994 issue), performs at Severance Hall, 11001 Euclid Avenue. For most concerts, student tickets cost \$12.00 (\$15.00 for Saturday and Sunday concerts). Generally, subscription tickets cost \$22.00 to \$54.00 per concert. Discounted tickets must be purchased in person at Severance Hall.

Any out-of-state student who insists that he/she is only in Cleveland to attend law school is denying himself/herself of a national treasure by missing America's best symphony. Call for the concert schedule 231-1111.

On a smaller scale, the Ohio Chamber orchestra, which performs this year at CSU's Waetjen's Auditorium, is for the classical music lover who prefers the intimacy that chamber music provides. For information, call 464-1755 or write to the Ohio Chamber Orchestra at 3659 Green Road, Suite 118, Cleveland, Ohio 44122.

Similarly, your I.D. card enables you to see excellent theatre at affordable prices.

For any production's non-Friday / non-Saturday night performances, your CSU Student ID (with the current sticker) allows you to purchase a single ticket for only \$6.00!! Even though you still have to pay the parking fee of \$5.50, the ticket price is substantially lower than the regular price. Ticket purchases are limited to a single ticket at this price per student per production. If you are purchasing your ticket on the day of the performance, you may purchase an additional ticket at half price. A faculty or staff member (as well as the general public) may purchase a half-price "rush" ticket on the day of the performance.

Tickets may be purchased in advance of the performance, as soon as tickets go on sale for the individual production, at the Box Office, 8500 Euclid Avenue. Box Office hours vary; you may want to call for hours and ticket availability (795-7000). Each student must purchase his or her own ticket in person, with cash, at the Box Office. Rush tickets may be purchased either with cash or major credit card.

(Note: The Cleveland Play House is located east of CSU on Euclid Avenue; it is not part of the Playhouse Square complex just west of here.)

The 1996-97 Season includes the following plays:

Laughter on the 23rd Floor (Drury) October 15 - November 10
The Gifts of the Magi (Bolton) November 26 - December 22
Antigone (Drury) January 14 - February 9
The Importance of Being Earnest (Bolton) February 4 - March 2
Oleanna (Drury) March 4 - March 30
The Diary of Anne Frank (Bolton) April 1 - April 27
I Do! I Do! (Drury) April 29 - May 25

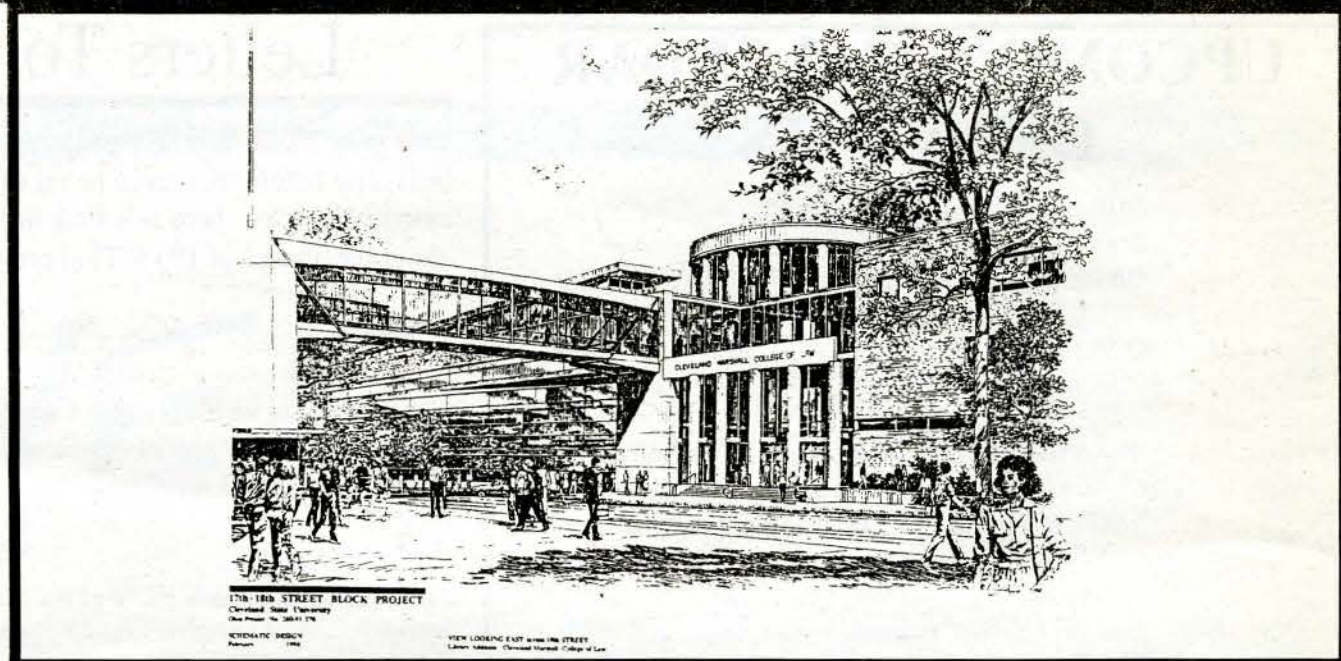
The Cleveland Play House, founded in 1915, is America's oldest regional professional theatre. Enjoy this upcoming season!

Building Up and Out

Mary Stanco, Catalog Librarian
Kim PeGan, Library Assistant

This summer, while watching and literally feeling the progress taking place in our backyard, the Law Library Staff has been busy preparing for an eventful new school year. We kicked it off in June with the "Topping Off" Ceremony for the new building. The Library Staff had an opportunity to tour the construction site which is 62% complete. The building is scheduled to open in August 1997. The staff is working on a Space Planner to best utilize all of the new room. You can check on the progress of the new library by visiting the Library's website. The URL is <http://www.law.csuohio.edu/law/library/> just click on "See the Progress of Our New Library" to view the latest photos.

Concurrent with the structure of the new building, the Law Library staff is constantly striving to find better ways to serve our Law School community. This year's orientation was made more informative for our First Year students by adding training on e-mail. Every student



is encouraged to apply for an Internet account that is available through the Law Library. You can pick up an application from room 144 in the PC Lab. Our Automation Staff Wayne Hogue and Dan Maynard are willing to answer any questions regarding e-mail accounts, and they can also help you get set up for remote access from your home.

Since our new library will give us considerably more space to house materials, new resources have been gathered. Approximately 2,500 new titles have been added.

In fact, OhioLINK has made available three new reference databases which are easily available at the terminals throughout the Library by clicking on the Library webpage. The new databases are American Heritage Dictionary with full text definitions, Columbia Encyclopedia with full text to articles, and a Thesaurus of the English language.

As you probably know, this year marks the College of Law's Centennial and the Library is participating in this event.

Michael Slinger, Director of the Library, and Marie Rehmar, Head of Reference, are members of the Centennial Celebration Committee and are looking forward to a year of celebration. Mark Gooch has prepared a biographical bibliography on Attorney General Janet Reno to commemorate her visit to Cleveland State University on September 30. The bibliography is available at the Reference section.

The Law Library Staff welcomes suggestions from you.

FACULTY AND STAFF NEWS

By Rosa M. DelVecchio

Linda Ammons presented a paper on "Women of Color and Domestic Violence" at the Masquerade and Gendered Identity Conference in Venice, Italy. In April, Professor Ammons was a keynote speaker for the United Methodist's 56th Annual National Convention held in Cleveland and delivered a presentation entitled "Family Values that Matter." In July, Professor Ammons participated in the International Conference on Law and Society in Glasgow, Scotland, where she chaired the Gender and Labor Relations panel and presented a paper on "African-American Women and Battered Woman's Syndrome." Professor Ammons spent a week in August teaching administrative law at the National Judicial College in Reno, Nevada.

Gordon Beggs (Fair Employment Practices Clinic) spoke on "Laboring Under the Sun: An Old Testament Perspective on the Legal Profession" at the Christian Legal Society meeting in September.

Dena Davis delivered three presentations: "Female Genital Mutilation, Education, and the Child's Right to an Open Future" at the International Conference on

Law and Society in July, "Moral Courage: Resistance to McCarthyism" at the Association of Practical and Professional Ethics in March, and "Devices, Disguises, and Desires: The Jewish Woman as Trickster" at the Masquerade and Gendered Identity Conference at Leeds Metropolitan University School of Cultural Studies in February.

Patricia Falk published an article, "The Novel Theories of Criminal Defense Based Upon the Toxicity of the Social Environment: Urban Psychosis, Television Intoxication, and Black Rage," in the *North Carolina Law Review*.

Several faculty and staff, including Paul Carrington, Priscilla Jackson, Tayyab Mahmud, and Beverly Pyle, worked the CSU booth at the African-American Family picnic at Luke Easter Park in August.

David Forte published "The Illiberal Court" in the National Review in July and "Eve Without Adam: What Genesis has to Say to America about the Natural Law" in the Heritage Foundation Lectures in August. Professor Forte spoke on "The Future of Law" at the Philadelphia Society in Pennsylvania in April and also spoke at

the Russell Kirk Memorial Lecture at the Heritage Foundation in May.

In September, Visiting Baker-Hosteteler Professor **Samuel Gorovitz** delivered a presentation entitled "Some First Draft Thoughts on Legal Education" at the first Law Faculty Seminar for the Fall. Professor Gorovitz and Dena Davis organized a monthly bioethics reading group for faculty from CSU and elsewhere.

Dennis Keating published *REVITALIZING URBAN NEIGHBORHOODS* with University Press of Kansas.

Legal Writing Instructors **Brian Glassman**, **Sandra Kerber**, and **Beverly Pyle** delivered presentations at the Innovative Teaching Methods session of the Learning from the Disciplines: A Conference for People Who Teach in or Administer Legal Writing Programs, which was sponsored by the Legal Writing Institute and held at Seattle University in July.

Katherine Malmquist (law library) accepted a two-year appointment as the Committee News Column Editor for the American Association of Law Libraries *Spectrum* news magazine. Ms. Malmquist took a three-week leave

during which she participated as a volunteer staff member at the Equestrian venue of the Summer Olympics.

Ellen Quinn (law library) reviewed "Mealey's Emerging Insurance Disputes Newsletter" in *Legal Information Alert*.

Michael J. Slinger (law library) published an article entitled "Mike and Jim's Excellent New York Adventure" in the *Law Library Journal*.

Bae Smith (law library) participated on the Advisory Board of a new legal acquisitions product called Bookscope.

Steven H. Steinglass was a faculty member at a Federal Judicial Center Workshop for Federal Judges from the Sixth and Eighth Circuits in Michigan in August. Dean Steinglass delivered a presentation on "Recent Sixth Circuit Decisions" to about 40 federal judges.

Stephen J. Werber participated in the Housing Advocates, Inc., Golf Scramble Tournament in September and won the closest to the pin prize for his nine iron shot to the par three seventh hole at Tanglewood, stopping the ball just five feet from the little hole.

See Criminal from page 1

to achieve those purposes.

The new amendments are unitary in nature; you can't determine an appropriate punishment by looking only to one section. All of the provisions of O.R.C. sections 2929.11-19 are relevant in determining the appropriate sentence. A commission was created by the General Assembly to develop a simplified sentencing structure designed to ensure proportionality, consistency, and fairness, while at the same time enhancing certainty in sentencing. Nevertheless, judicial discretion was retained.

"Truth in Sentencing" was established to replace the "charade" of previous sentencing law. Previously, a sentence given by a judge usually had no resemblance to the actual time served. Thus, the new sentencing rejects indefinite sentences in favor of definite sentences. Also, automatic, unearned "good-time credit" is abandoned.

Other important changes in the criminal code include: the parole board no longer has the authority to shorten criminal sentences; sentencing caps were eliminated on consecutive sentences; the sentencing ranges within each class have been reduced to reflect the sentence imposed will be the sentence served; the nature of the judicial discretion is limited and principled and the judges are provided with strict guidance when selecting a term of imprisonment within the new ranges (in other words, the judge may sentence anywhere within the statutory range rather than the presumed minimum prison sentence, provided it is justified upon the facts of the offense, the

offender's conduct, and the offender's attitude); early release, in accordance to guidelines in the statute, replace shock or super-shock probations as well as parole; a continuum of sanctions that range from imprisonment in a state institution to various community-based sanctions, including residential sanctions as an alternative to prison terms for felonies, has evolved (thus, a judge may select from a significantly broad variety of sentencing options when choosing the punishment that best fulfills the statute-mandated goals of sentencing); mandatory prison sentences were retained, but limited to violent felonies, certain drug offenders, RVOs, and offenders who are armed while committing felonies; an extension to prison terms called "Bad Time" for prisoners' misconduct was instituted; after-prison supervision is mandatory for some crimes, discretionary for others (this enables the justice system to monitor the convict's behavior following completion of the full term of imprisonment); appellate review sentences available upon appeal by either party (this appellate review mechanism is geared to ensure that the goals of consistency and reduce disparity in sentencing can be reconciled with a retention of judicial discretion); the statute provides for appeals as of right by both the defendant and the prosecution on several specified grounds, and the court may increase, decrease, modify or remand a case for a re-sentencing by the trial court; the victim also plays a more active role in the sentence process.

A new felony classification system was developed (Felony 5)

which does **not** include a category for *aggravated* felonies. Also, there is no probation (*except for misdemeanors), no caps on consecutive sentences, and there are no hard and fast rules for determining who goes to jail and who doesn't because the judge, pursuant to O.R.C. section 2929.11 will have more power to decide.

According to section 2929.14 (C), a court may impose the **longest** sentence only upon offenders who commit the worst forms of the offense, who pose the greatest likelihood of committing future crimes, and upon major drug offenders and RVOs. Under section (B) of the same section, if the offender has not previously served a prison term, the court shall impose the **shortest** prison term authorized for the offense **unless** the court finds that the shortest prison term will demean the seriousness of the offenders' conduct or will not adequately protect the public from future harm.

Since this new law, many criminal defense attorneys and prosecutors have been seriously contemplating doubling their malpractice insurance coverage due to the unpredictability of the consequences of the new legislation.

Women continued from p.10

into the uterus, fallopian tubes and ovaries causing pelvic inflammatory disease which may affect future fertility. Therefore, it is important to try to prevent STDs by using condoms and spermicidal foam/jelly and secondly, to detect them early by screening exams to treat them before complications occur.

Lastly, lung cancer has replaced breast cancer as the number one killer of women due to increased smoking among women. Not only does smoking cause an increased risk of most cancers, it also increases the risk of heart disease and makes the skin prone to wrinkles! Obviously, if women want to be healthier and look younger, they should quit smoking.

For assistance, annual exams, or further information, contact Health Services at 687-3649. Here's to your health!!!

Parking from page 1

tatives, would be concerned about promoting fairness and equality to all students, despite their economic ability. I hope in the future our SBA representatives "**think**" before they endorse policies that exclude people from using public facilities based on their economic ability to pay.

"TRICK OR TREAT"

The Student Bar Association invites you to attend the annual

HALLOWEEN PARTY

Friday October 25, 1996

Children (6-7 P.M.)

Adults (7:30 P.M. - 12:00 A.M.)

A Costume Party with Music,
Beverages and Food.

Join the OSBA now for 1997 and receive membership for the rest of 1996 FREE!

Ohio State Bar Association Law student membership offers:

- **U**p-to-date legal information through the quarterly student publication *Associate News*, the weekly *Ohio State Bar Association Report (OBAR)* and bimonthly *Ohio Lawyer*.
- **E**ligibility to apply for the OSBA Law School Student Scholarship. Two scholarships will be awarded: One award at \$1,500 and one at \$1,000.
- **O**pportunities to interact and network with practicing attorneys through committee, section and district meetings as well as the OSBA Annual Convention.
- **B**ar review discount. West Professional Training Programs, Inc. is offering all law school student members of the OSBA a discount off the full price of the West Ohio Bar Review Course.
- **A** job resource for third-year students through our Resume Exchange Program that makes your resume available to firms that have positions available. *OBAR* also contains job listings.
- **S**avings through discount programs. The OSBA offers savings through Jos. A. Bank Clothiers, long-distance telephone service, cellular phone service and more!



For more information or to join, contact the Ohio State Bar Association, Membership Services Department, P.O. Box 16562, Columbus, OH 43216-6562 or call (800) 282-6556.



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